

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0676

ORIGINAL

STATE OF MONTANA,

Plaintiff and Appellee,

v.

WILLIAM NIGRO,

Defendant and Appellant.

FILED

AUG 18 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA**MOTION FOR EXTENSION OF TIME  
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Jennifer A. Hurley, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until September 24, 2010, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 18th day of August, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER  
Appellate Defender Office  
139 N. Last Chance Gulch  
P.O. Box 200145  
Helena, MT 59620-0145

By: 

JENNIFER A. HURLEY

Assistant Appellate Defender

STATE OF MONTANA            )  
  : ss.

County of Lewis and Clark    )

I, Jennifer A. Hurley, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as an Assistant Appellate Defender.

2. In my capacity as Assistant Appellate Defender, I have been assigned to handle the above-entitled matter.

3. The Appellant's brief was first due on July 26, 2010. The brief is presently due on August 25, 2010. This is Appellant's second request for an extension.

4. Counsel is currently working on the above-captioned matter. Additionally, counsel has an opening brief in *State v. Dalton*, DA 10-0042, due August 18, 2010, and an opening brief in *State v. Rodriguez*, DA 10-0128, due September 6, 2010.

5. On May 19, 2010, this Court granted Mr. Nigro's pro se motion for appointment of counsel on appeal. After the Appellate Defender Officer determined that Mr. Nigro qualified for its services, counsel entered her appearance on June 25, 2010.

6. The municipal court record in this matter was not transmitted with the district court record. The Court did not receive the municipal court record until on or about August 5, 2010, which has caused further delay in counsel's review of the matter.

7. In light of this current workload and delay, counsel has not been able to complete briefing and consult with the client in time to file the brief by the current deadline.

8. Counsel will work diligently to complete the matter in the time requested.

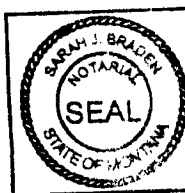
9. Opposing counsel has been contacted regarding this motion and does not object.

10. Further your affiant sayeth naught.

  
JENNIFER A. HURLEY

SUBSCRIBED AND SWORN to before me this 18<sup>th</sup> day of

August, 2010.



SARAH J. BRADEN  
NOTARY PUBLIC for the  
State of Montana  
Residing at Helena, Montana  
My Commission Expires  
January 25, 2011

  
Sarah J. Braden

**CERTIFICATE OF SERVICE**

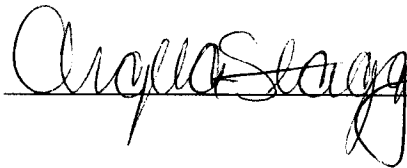
I hereby certify that I caused a true and accurate copy of the foregoing  
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK  
Montana Attorney General  
MARK MATTIOLI  
Assistant Attorney General  
215 North Sanders  
P.O. Box 201401  
Helena, MT 59620-1401

BRENT BROOKS  
Billings City Attorney  
210 North 27th Street  
P.O. Box 1178  
Billings, MT 59101

WILLIAM NIGRO  
3020 7th Avenue North, #12  
Billings, MT 59101

DATED: 8/18/10

  
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